

February 26, 2004

Charles R. Fulbruge III
Clerk

UNITED STATES COURT OF APPEALS
FIFTH CIRCUIT

No. 02-61064 c/w
No. 03-60103

CHARLES COOL,
as Executor of the Estate of Cathy Cool,

Plaintiff-Appellee,

versus

CHIC WIGS,

Defendant-Appellant.

Appeal from the United States District Court
for the Southern District of Mississippi
(3:00-CV-251-BN)

Before SMITH, BARKSDALE, and CLEMENT, Circuit Judges.

PER CURIAM:*

For these consolidated appeals from the post-jury-trial judgment and attorney's fees awarded against it in this sexual harassment action, Chic Wigs presents three issues. This action was filed after the death of the Chic Wigs' employee who claimed such harassment.

First, Chic Wigs contests the admission of three items of evidence - EEOC documents. The Chic Wigs employee had filed charges with the EEOC; the documents concern those charges. Based

*Pursuant to 5TH CIR. R. 47.5, the court has determined that this opinion should not be published and is not precedent except under the limited circumstances set forth in 5TH CIR. R. 47.5.4.

upon the unusual procedural posture of this action, our review of the record, and application of the proper standard of review, the district court did not commit reversible error.

Second, Chic Wigs challenges the denial of its motion for a mistrial based on statements in Cool's closing argument about a witness not being called by Chic Wigs. The district court found there was no prejudice. This ruling was not an abuse of discretion.

Third, Chic Wigs has appealed the award of attorney's fees to Cool. At oral argument for this appeal, however, Chic Wigs conceded that, if the judgment were upheld, so too should the fees order. Accordingly, because of our disposition of the other issues, we need not address this issue.

AFFIRMED